

MDR Tracking Number: M5-04-3425-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 06-08-04.

The IRO reviewed therapeutic exercises and activities, muscle testing, office visits, FCE and range of motion rendered from 12-24-03 through 03-15-04 that were denied based upon "V".

The IRO determined that office visits from 12-24-03 up until and including 02-16-04 **were** medically necessary. Office visits beyond 02-16-04 **were not** medically necessary. The IRO further determined that the therapeutic exercises, therapeutic activities, muscle testing, range of motion testing and FCE **were not** medically necessary.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the **majority** of issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee. The respondent raised no other reasons for denying reimbursement for the above listed services.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 07-15-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

CPT code 99080-73 date of service 02-18-04 denied with denial code "M" (values for DOP procedures shall be determined by written documentation attached to the bill). The requestor did not submit relevant information to support delivery of service. No reimbursement is recommended.

## **ORDER**

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202(c) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this order. This Decision is applicable for dates of service 01-19-04, 02-06-04 and 02-11-04 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Findings and Decision and Order are hereby issued this 27th day of October 2004.

Debra L. Hewitt  
Medical Dispute Resolution Officer  
Medical Review Division

DLH/dlh

October 15, 2004

Texas Workers' Compensation Commission  
Medical Dispute Resolution  
Fax: (512) 804-4868

## **REVISED REPORT**

Re: Medical Dispute Resolution  
MDR #: M5-04-3425-01  
TWCC#:  
Injured Employee:  
DOI:  
SS#:  
IRO Certificate No.: 5055

Dear

\_\_\_ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, \_\_\_ I reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of \_\_\_\_ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine and is currently on the TWCC Approved Doctor List.

## **REVIEWER'S REPORT**

### **Information Provided for Review:**

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor: office notes, physical therapy notes, Ergos evaluation, FCE and radiology reports.

Information provided by Respondent: correspondence and designated doctor exam.

### **Clinical History:**

Patient is a 42-year-old female worker who, on \_\_\_\_, sustained an amputation injury to the tip of her right forefinger. She was initially seen at a medical center, where she saw a hand surgeon who performed debridement and full-thickness skin grafting using skin from the right wrist on 09/05/03. The patient then began post-surgical physical therapy under the supervision of a doctor of chiropractic. When her pain and dysfunction continued, additional x-rays by the hand surgeon revealed a bone spur, so he recommended revision surgery. This was performed on 11/25/03, followed by additional post-surgical physical therapy and rehabilitation. She was eventually deemed MMI on 02/26/04 with a 7% whole-person impairment.

### **Disputed Services:**

Therapeutic exercises & activities, muscle testing, office visits, FCE, and range of motion testing during the period of 12/24/03 through 03/15/04.

### **Decision:**

The reviewer partially agrees with the determination of the insurance carrier during the period in question as follows:

- Office visits from 12/24/03 up until and including 02/16/04 (excluding the office visit on 01/22/04 that was not considered) were medically necessary. Office visits beyond 02/16/04 were not medically necessary.
- Therapeutic exercises, therapeutic activities, muscle testing, range of motion testing and FCE were not medically necessary in this case.

### **Rationale:**

In this case, the patient underwent two separate surgeries to her right index finger and was not determined to be at MMI until 02/26/04. Therefore, it was reasonable on the part of the treating doctor to perform periodic evaluations and follow-ups in the ongoing

management of the patient injury until she was MMI. Insofar as the functional capacity evaluation was concerned, the carrier's own peer reviewer wrote in his opinion rendered on 02/17/04 that "the patient should return to work within the parameters of a Functional Capacity Evaluation." Therefore, the medical necessity of these services was supported.

However, in reference to the extensive rehabilitation services that were provided, there was no evidence or rationale provided to support the need for continued monitored therapy for longer than four weeks following the 2<sup>nd</sup> surgery. Services that do not require "hands-on care" or supervision of a health care provider are not considered medically necessary services even if the services are performed by a health care provider. Further, continuation of an unchanging treatment plan, performance of activities that could be performed as a home exercise program, and/or modalities that provide the same effects as those that can be self applied are not indicated. And, any gains that occurred during this time period would likely have equally been achieved through performance of a home program and are thus not medically necessary.

On the most basic level, the provider failed to establish why the services performed were required to be performed in the least cost effective setting. Therapeutic exercises may be performed in a clinic one-on-one, in a clinic in a group, at a gym or at home. The least costly of these options, of course, is for the exercises to be performed at home. A home exercise program is also preferable because the patient can perform them on a daily basis. No justification was provided in the documentation submitted to support the need for ongoing one-on-one therapy past 12/23/03 (4 weeks post-surgically), particularly considering that the compensable injury involved such a small, confined body part. On the contrary, and for all practical purposes, no actual treatment records were supplied since the daily progress notes were computer generated, essentially verbatim from day to day, and practically super imposable upon each other. Therefore, there arguably was no documentation to support the medical necessity for the treatments in dispute.

Finally, in terms of the muscle testing (95831) and the range of motion testing (95851), these services were a component of the Evaluation and Management services (in this case, 99212) that were performed on the same encounter. Therefore, performing them again on the same date of service would be duplicative, and as such, medically unnecessary.

Sincerely,